

Response to Rejection of Claims 1-63 under Obviousness Double Patenting

1. Claims 1-63 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of US 6,525,768 and over claims 1-48 of copending Application No. 09/952,632.
2. Regarding to the '768 patent, entitled "Positioning Camera and GPS Data Interchange Device, it relates generally to a system for communicating tagged GPS encoded data. The main purpose of this invention is not multi-target tracking. Because only GPS is used in the '768 invention for positioning, under some environments where GPS signals are blocked, such as inside a building, heavy forest, or intentional jamming and blocking, the '768 invention cannot exchange data because the positioning information is not available by the GPS receiver. However, the instant invention can still provide positioning information by the self-contained positioning device under various environments.
3. According to the instant invention, the Portable Multi-Tracking Method and System (PMTMS) proposes a method and system for multi-tracking among independent individuals without a monitoring center. It can be applied to a person, a vehicle, or any other property. GPS, MEMS INS, or Integrated GPS/MEMS INS is used for positioning. This system is suitable for both inside and outside a building. Wireless mobile Internet is proposed for data exchange between individuals.
4. Another Copending Application No. 09/952,632 is "Networked Position Multiple Tracking Process". Its system structure is different from the instant invention although both systems are networked. In the instant invention, each individual is networked in a group, and wireless mobile Internet is used for data exchange between individuals. However, the Networked Position Multiple Tracking Process (NPMTP) is based on a hierarchical architecture. All individual units are organized in small groups while small groups are organized in bigger groups. Intra-groups and inter-groups utilize different wireless communication techniques. The hierarchical structure is suitable for data transfer in a larger areas or different geographical area.

Response to Rejection of Claims 1-63 under 35USC103

5. The Examiner rejected claims 1-63 over Takashi (2000-357296) in view of Obradovich (US 6,525,768) and Breed et al (US 6,720,920). Pursuant to 35 U.S.C. 103:

“(a) A patent may not be obtained thought the invention is **not identically** disclosed or described as set forth in **section 102 of this title**, if the **differences** between the subject matter sought to be patented and the prior art are such that the **subject matter as a whole would have been obvious** at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.”

6. In view of 35 U.S.C. 103(a), it is apparent that to be qualified as a prior art under 35USC103(a), the prior art must be cited under 35USC102(a)~(g) but the disclosure of the prior art and the invention are not identical and there are one or more differences between the subject matter sought to be patented and the prior art. In addition, such differences between the subject matter sought to be patented **as a whole** and the prior art are obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.

7. In other words, the differences between the subject matter sought to be patent **as a whole** of the instant invention and Takashi which is qualified as prior art of the instant invention under 35USC102(b) are obvious in view of Obradovich and Breed et al. at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.

8. Accordingly, Takashi patent is proposed to provide each vehicle with position information of plural vehicles to enable them to confirm positions of each other. Its main purpose is for vehicle applications. However, the instant invention is suitable for applications of both vehicles and personal.

9. In addition, the sensors used in Takashi include a GPS receiver, a vehicle speed sensor, and a gyro sensor. The instant invention utilizes a GPS receiver and a self-contained MEMS IMU (gyro and accelerometer).

10. In Takashi's patent, the positioning information of each vehicle is transmitted to a management center by a telephone unit. The management center receives it by a telephone unit. The position information collected by the telephone units is delivered to each vehicle from the management center by a satellite digital sound broadcasting transmitter. However, there is not a monitoring center in the instant invention. Data can be exchanged directly between individuals by the wireless Internet.

11. As it is mentioned above, Obradovich relates generally to a system for communicating tagged GPS encoded data, wherein the mobile condition reporting device discloses a mobile condition reporting device which comprises a personal communication device (PCD) with electromagnetic communication capability. The main purpose of this invention is not multi-target tracking. Because only GPS is used in the '768 invention for positioning, under some environments where GPS signals are blocked, such as inside a building, heavy forest, or intentional jamming and blocking, the '768 invention cannot exchange data because the positioning information is not available by the GPS receiver. However, the instant invention can still provide positioning information by the self-contained positioning device under various environments. In addition, the instant invention proposes a Wireless mobile Internet for data exchange between individuals.

12. Breed's patent, entitled "Method and Arrangement for Communicating between Vehicles", is in the fields of automobile safety, intelligent highway safety systems, accident avoidance, blind spot detection, collision avoidance, autonomous vehicle control, vehicle-to-vehicle communication, vehicle-to-non-vehicle communication, and other automobile, truck, and train safety, navigation, communication, and control related fields. However, the application fields of the instant invention not only include automobile safety but also person tracking.

13. The Examiner appears to reason that since Takashi teaches that a GPS receiver transmitting a positioning information to the management center, it would have been obvious to one skilled in the art to modify the transmission device by Obradovich and Breed. But this is clearly **not** a proper basis for combining references in making out an obviousness rejection of the present claims. Rather, the invention must be considered as a whole and there must be something in the reference that suggests the combination or the modification. See Lindemann Maschinenfabrik GMBH v. American Hoist &

Derrick, 221 U.S.P.Q. 481, 488 (Fed. Cir. 1984) ("The claimed invention must be considered as a whole, and the question is whether there is something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination"), In re Gordon, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984), ("The mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification.") In re Laskowski, 10 U.S.P.Q.2d 1397, 1398 (Fed. Cir. 1989), ("Although the Commissioner suggests that [the structure in the primary prior art reference] could readily be modified to form the [claimed] structure, "[t]he mere fact that the prior art could be modified would not have made the modification obvious unless the prior art suggested the desirability of the modification.")

14. In the present case, there is no such suggestion. Takashi, Obradovich and Breed perform very different types of positioning information system. In any case, even combining Takashi, Obradovich and Breed would not provide the invention as claimed -- a clear indicia of nonobviousness. Ex parte Schwartz, slip op. p.5 (BPA&I Appeal No. 92-2629 October 28, 1992), ("Even if we were to agree with the examiner that it would have been obvious to combine the reference teachings in the manner proposed, the resulting package still would not comprise zipper closure material that terminates short of the end of the one edge of the product containing area, as now claimed."). That is, modifying Takashi with Obradovich and Breed, as proposed by the Examiner, would not provide a portable multi-tracking method and system using Wireless mobile Internet for data exchange between individuals.

15. Accordingly, applicants believe that the rejection of claims 1-63 is improper and should be withdrawn.

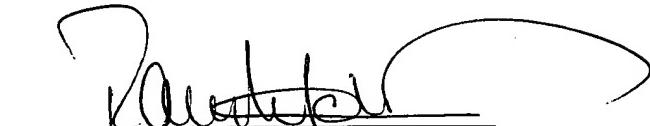
The Cited but Non-Applied References

16. The cited but not relied upon references have been studied and are greatly appreciated, but are deemed to be less relevant than the relied upon references.

17. In view of the above, it is submitted that the claims are in condition for allowance. Reconsideration and withdrawal of the objection are requested. Allowance of claims 1-63 at an early date is solicited.

18. Should the Examiner believe that anything further is needed in order to place the application in condition for allowance, he is requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

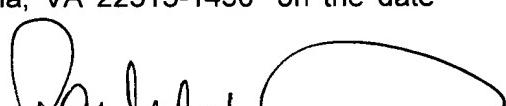


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CERTIFICATE OF MAILING

I hereby certify that this corresponding is being deposited with the United States Postal Service by First Class Mail, with sufficient postage, in an envelope addressed to "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on the date below.

Date: June 30, 2005



Signature: Raymond Y. Chan
Person Signing: Raymond Y. Chan